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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Andreas Michl

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30671

7590

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EXAMINER

LEE, JAE YOUNG

ART UNIT

PAPER NUMBER

2419

MAIL DATE

DELIVERY MODE

07/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/567,474	MICHL, ANDREAS	
	Examiner	Art Unit	
	JAE Y. LEE	2419	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6-11,13 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-11,13 and 15-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11 May 2009 has been entered.

Response to Amendments

2. Claims 3, 5, 12, and 14 have been cancelled.
3. Claims 18-21 have been added.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 2, 4, 6-11, 13, and 15-21 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. **Claim 1, 2, 4, 6-11, 13, 15-21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Pruthi (US 2002/0105911) in view of Bahadiroglu (US 2002/0186660), Leftwich (US 6,356,256), and Hilliker (US 2002/0100422).

For claims 1, 10, Pruthi discloses a system and method comprising:

- a message analyzer for analyzing messages which are transmitted, the message analyzer comprising (Fig. 1: computer C1; Fig 10: traffic visualizer);
- a storage device for storing messages (Fig. 3: 318: paragraph 0036 line 2: memory);
- a selector for reading in a sequence of temporally successive messages (paragraph 0036 lines 3-5: processor and query engine generating statistics corresponding to the packets);
- a display device (paragraph 0037 line 11) for displaying, on a single screen, a first region and one a second region, wherein a the sequence of messages,

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is read in by means of the selector from the storage device be and displayed listed in the first region (Fig. 17, Fig. 20),

- wherein the selector determines, for the first characteristic feature of the messages which are transmitted and the a course of this the first characteristic feature is displayed on the display device in the second region (Fig. 20: TCP level bit rate)
- additional item of information stored during storage of messages in the storage device (Fig. 17: sequence of messages; paragraph 0036 lines 13-16: statistics in memory; paragraph 0037 lines 8-11: providing the statistics to display device)

Pruthi discloses all the subject matter of the claimed invention with the exception for at least one service access points from layers of an Open Systems Interconnection (OSI) reference model and end system of a subscriber of a mobile telephone system. Bahadiroglu discloses at least one service access points from layers of an Open Systems Interconnection (OSI) reference model (paragraph 0089 lines 1-8: SAP, OSI protocol model) and end system of a subscriber of a mobile telephone system (paragraph 0036 line 5: mobile node; paragraph 0073 line 3-15: network is interconnected by lines including fiber optic cables, wireless connections connected to processing device or mobile phone). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate at least one service access points from layers of an Open Systems Interconnection (OSI) reference model and end system of a subscriber of a mobile telephone system of

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Bahadiroglu to the method and the system of Pruthi. The motivation would have been to provide adaptive packet mechanism for optimizing data packet transmission through a connection between the sending node and the receiving node (Bahadiroglu paragraph 0047 lines 1-7).

Pruthi and Bahadiroglu disclose all the subject matter of the claimed invention with the exception for a selection with which a specific point of the course of the first characteristic feature selected is selectable in the second region. Leftwich discloses a selection with which a specific point of the course of the first characteristic feature selected is selectable in the second region (Fig. 4; col 5 lines 20-41: cursor accessing particular data points and displaying values of the data plots at the cursor position in data fields of window). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate a selection with which a specific point of the course of the first characteristic feature selected is selectable in the second region of Leftwich to the method and the system of Pruthi and Bahadiroglu. The motivation would have been to provide a system for displaying information on a display device such that the information is easily perceivable by a user (Leftwich col 1 lines 29-31).

Pruthi, Leftwich, and Bahadiroglu disclose all the subject matter of the claimed invention with the exception for the display device is configured to display a marking produced automatically by the selector in the second region based on a predefined additional item of information. Hilliker discloses the display device is configured to display a marking produced automatically by the selector in the second region based on

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a predefined additional item of information (Fig. 5B; paragraph 0045 lines 1-10: test output generated by network analyzer for test configuration including a plot of attenuation versus frequency, and a table of values corresponding to the markers on plots, see also paragraph 0046). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate the display device is configured to display a marking produced automatically by the selector in the second region based on a predefined additional item of information of Hilliker to the method and the system of Pruthi, Leftwich, and Bahadiroglu. The motivation would have been to enhance user interface.

For claims 2, 11, Pruthi discloses

- the selector (paragraph 0036 lines 3-5: processor and query engine generating statistics corresponding to the packets) determines a second characteristic feature for messages which are transmitted, and the a course of the second characteristic feature is displayed on the display device in the second region of the display device (Fig. 20: TCP level packet rate)

Pruthi discloses all the subject matter of the claimed invention with the exception for a plurality of service access points of a layer of the OSI reference model.

Bahadiroglu discloses a plurality of service access points of a layer of the OSI reference model (paragraph 0089 lines 1-8: SAP, OSI protocol model). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate a plurality of service access points of a layer of the OSI reference model

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of Bahadiroglu to the method and the system of Pruthi. The motivation would have been to provide adaptive packet mechanism for optimizing data packet transmission through a connection between the sending node and the receiving node (Bahadiroglu paragraph 0047 lines 1-7).

For claim 4, 13, Pruthi discloses the system comprising:

- message analyzer for analyzing messages which are transmitted, the message analyzer comprising (Fig. 1: computer C1; Fig 10: traffic visualizer):
a storage device for storing messages (Fig. 3: 318: paragraph 0036 line 2: memory);
- a storage device for storing messages (Fig. 3: 318: paragraph 0036 line 2: memory);
- a selector for reading in a sequence of temporally successive messages (paragraph 0036 lines 3-5: processor and query engine generating statistics corresponding to the packets);
- a display device (paragraph 0037 line 11) for displaying, on a single screen, a first region and one a second region, wherein a the sequence of messages, is read in by means of the selector from the storage device be and displayed listed in the first region (Fig. 17, Fig. 20),
- wherein the selector determines, for the first characteristic feature of the messages which are transmitted and the a course of this the first

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characteristic feature is displayed on the display device in the second region (Fig. 20: TCP level bit rate),

- wherein a sequence of messages is read in from the storage device (Fig. 17: sequence of messages; paragraph 0036 lines 13-16: statistics in memory; paragraph 0037 lines 8-11: providing the statistics to display device)

Pruthi discloses all the subject matter of the claimed invention with the exception for at least one service access points from layers of an Open Systems Interconnection (OSI) reference model and end system of a subscriber of a mobile telephone system. Bahadiroglu discloses at least one service access points from layers of an Open Systems Interconnection (OSI) reference model (paragraph 0089 lines 1-8: SAP, OSI protocol model) and end system of a subscriber of a mobile telephone system (paragraph 0036 line 5: mobile node; paragraph 0073 line 3-15: network is interconnected by lines including fiber optic cables, wireless connections connected to processing device or mobile phone). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate at least one service access points from layers of an Open Systems Interconnection (OSI) reference model and end system of a subscriber of a mobile telephone system of Bahadiroglu to the method and the system of Pruthi. The motivation would have been to provide adaptive packet mechanism for optimizing data packet transmission through a connection between the sending node and the receiving node (Bahadiroglu paragraph 0047 lines 1-7).

Pruthi and Bahadiroglu disclose all the subject matter of the claimed invention with the exception for a sequence of messages is dependent upon a selection with which specific point of the first characteristic feature is selectable in the second region. Leftwich discloses a sequence of messages is dependent upon a selection with which specific point of the first characteristic feature is selectable in the second region (Fig. 4; col 5 lines 20-41: cursor accessing particular data points and displaying values of the data plots at the cursor position in data fields of window). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate a sequence of messages is dependent upon a selection with which specific point of the first characteristic feature is selectable in the second region of Leftwich to the method and the system of Pruthi and Bahadiroglu. The motivation would have been to provide a system for displaying information on a display device such that the information is easily perceivable by a user (Leftwich col 1 lines 29-31).

Pruthi, Leftwich, and Bahadiroglu disclose all the subject matter of the claimed invention with the exception for at least one a plurality of specific point is points are marked by a marking respective markings in the course displayed in the second region and, upon selection of a marking of the marking markings, a sequence of messages which corresponds to the specific point of the selected marking. Hilliker discloses at least one a plurality of specific point is points are marked by a marking respective markings in the course displayed in the second region and, upon selection of a marking of the marking markings, a sequence of messages which corresponds to the specific point of the selected marking (Fig. 5; paragraph 0045 lines 1-10: test output generated

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by network analyzer for test configuration including a plot of attenuation versus frequency, and a table of values corresponding to the markers on plots). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate at least one a plurality of specific point is points are marked by a marking respective markings in the course displayed in the second region and, upon selection of a marking of the marking markings, a sequence of messages which corresponds to the specific point of the selected marking of Hilliker to the method and the system of Pruthi, Leftwich, and Bahadiroglu. The motivation would have been to enhance user interface.

For claim 6, 15, Pruthi discloses

- the course of the first characteristic feature is displayed in the second region in a coordinate system, wherein the X axis of the coordinate system is a time axis (Fig. 20: plot of TCP level bit rate)

For claim 7, 16, Pruthi discloses

- the third region (Fig. 17) of the course displayed in the second region which corresponds respectively to the sequence of messages currently displayed in the first region (Fig. 20)

Pruthi does not explicitly disclose highlighting. However, Pruthi discloses the third region of the course displayed in the second region which corresponds respectively to the sequence of messages currently displayed in the first region (Fig. 17, Fig. 20).

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Therefore, it is obvious to one having ordinary skill in the art at the time is able to recognize the information of messaging since highlighting is known to the artisan of ordinary skill as design choice.

For claim 8, 17, Pruthi discloses

- the course of the first characteristic feature is displayed in the second region in a coordinate system, wherein the X axis of the coordinate system is subdivided into intervals (Fig. 20: TCP level bit rate; paragraph 0038 lines 6-9: packets divided into sets during one of successive one-second time periods).

Pruthi does not explicitly disclose each having an identical number of messages. However, Pruthi discloses TCP level bit rate (Fig. 20) and packets divided into sets during one of successive one-second time periods (paragraph 0038 lines 6-9). Therefore, it is obvious to one having ordinary skill in the art at the time is able to use the identical number of messages during sampling time because the packets divided into sets during one of successive one-second time periods. The motivation would have been to improve reliability by monitoring data on the communication line.

For claim 9, Pruthi discloses

- the first characteristic feature is a number of transmitted messages per interval of time or a data load or a number of messages transmitted repeatedly (Fig. 20: TCP level bit rate).

Pruthi discloses all the subject matter of the claimed invention with the exception for a layer of the OSI reference model. Bahadiroglu discloses a layer of the OSI reference model (paragraph 0089 lines 1-8: OSI protocol model). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate a layer of the OSI reference model of Bahadiroglu to the method and the system of Pruthi. The motivation would have been to provide adaptive packet mechanism for optimizing data packet transmission through a connection between the sending node and the receiving node (Bahadiroglu paragraph 0047 lines 1-7).

For claims 18, 20, Pruthi discloses

- test run (Fig 10: traffic visualizer)

Pruthi, Leftwich, and Bahadiroglu disclose all the subject matter of the claimed invention with the exception for the predefined additional item of information is defined as a specific event that occurs. Hilliker discloses the predefined additional item of information is defined as a specific event that occurs (Fig. 5; paragraph 0045 lines 1-10: test output generated by network analyzer for test configuration including a plot of attenuation versus frequency, and a table of values corresponding to the markers on plots). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate the predefined additional item of information is defined as a specific event that occurs of Hilliker to the method and the system of Pruthi, Leftwich, and Bahadiroglu. The motivation would have been to enhance user interface.

For claims 19, 21, Pruthi discloses

- test run (Fig 10: traffic visualizer)

Pruthi, Leftwich, and Bahadiroglu disclose all the subject matter of the claimed invention with the exception for the specific event is a change of attenuation. Hilliker discloses the specific event is a change of attenuation (Fig. 5; paragraph 0045 lines 1-10: test output generated by network analyzer for test configuration including a plot of attenuation versus frequency, and a table of values corresponding to the markers on plots). Therefore, it would have been obvious to the person of ordinary skill in the art at the time of invention was made to incorporate the specific event is a change of attenuation of Hilliker to the method and the system of Pruthi, Leftwich, and Bahadiroglu. The motivation would have been to enhance user interface.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jae Y. Lee whose telephone number is (571) 270-3936. The examiner can normally be reached on Monday through Friday from 7:30 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Ryman can be reached on (571) 272-3152. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Jae Y Lee/
Examiner, Art Unit 2419

/Daniel J. Ryman/
Supervisory Patent Examiner, Art
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